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8 **BEFORE THE**  
9 **BOARD OF REGISTERED NURSING**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 2011-502

13 **MARIA CATURAY, a.k.a. MARIA**  
14 **LOUISA ZUCCONI**  
221 Lewis Avenue  
Millbrae, CA 94030  
Registered Nurse No. 343936

**AMENDED ACCUSATION**

15 Respondent.

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18 Complainant alleges:

19 **PARTIES**

20 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her  
21 official capacity as the Executive Officer of the Board of Registered Nursing, Department of  
22 Consumer Affairs.

23 2. On or about April 30, 1982, the Board of Registered Nursing issued Registered  
24 Nursing License Number 343936 to Maria Caturay also known as Maria Louisa Zucconi  
25 (Respondent). The Registered Nursing License was in full force and effect at all times relevant to  
26 the charges alleged in this Accusation and will expire on March 31, 2012, unless renewed.

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1       "(a) Obtain or possess in violation of law, or prescribe, or except as directed by a licensed  
2 physician and surgeon, dentist, or podiatrist administer to himself or herself, or furnish or  
3 administer to another, any controlled substance as defined in Division 10 (commencing with  
4 Section 11000) of the Health and Safety Code or any dangerous drug or dangerous device as  
5 defined in Section 4022.

6       ...

7       "(e) Falsify, or make grossly incorrect, grossly inconsistent, or unintelligible entries in any  
8 hospital, patient, or other record pertaining to the substances described in subdivision (a) of this  
9 section."

10       9. California Code of Regulations, title 16, section 1442, states:

11       "As used in Section 2761 of the code, 'gross negligence' includes an extreme departure from  
12 the standard of care which, under similar circumstances, would have ordinarily been exercised by  
13 a competent registered nurse. Such an extreme departure means the repeated failure to provide  
14 nursing care as required or failure to provide care or to exercise ordinary precaution in a single  
15 situation which the nurse knew, or should have known, could have jeopardized the client's health  
16 or life."

17       10. California Code of Regulations, title 16, section 1443, states:

18       "As used in Section 2761 of the code, 'incompetence' means the lack of possession of or the  
19 failure to exercise that degree of learning, skill, care and experience ordinarily possessed and  
20 exercised by a competent registered nurse as described in Section 1443.5."

21       11. California Code of Regulations, title 16, section 1443.5 states:

22       "A registered nurse shall be considered to be competent when he/she consistently  
23 demonstrates the ability to transfer scientific knowledge from social, biological and physical  
24 sciences in applying the nursing process, as follows:

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1       "(1) Formulates a nursing diagnosis through observation of the client's physical condition  
2 and behavior, and through interpretation of information obtained from the client and others,  
3 including the health team.

4       "(2) Formulates a care plan, in collaboration with the client, which ensures that direct and  
5 indirect nursing care services provide for the client's safety, comfort, hygiene, and protection, and  
6 for disease prevention and restorative measures.

7       "(3) Performs skills essential to the kind of nursing action to be taken, explains the health  
8 treatment to the client and family and teaches the client and family how to care for the client's  
9 health needs.

10       "(4) Delegates tasks to subordinates based on the legal scopes of practice of the  
11 subordinates and on the preparation and capability needed in the tasks to be delegated, and  
12 effectively supervises nursing care being given by subordinates.

13       "(5) Evaluates the effectiveness of the care plan through observation of the client's physical  
14 condition and behavior, signs and symptoms of illness, and reactions to treatment and through  
15 communication with the client and health team members, and modifies the plan as needed.

16       "(6) Acts as the client's advocate, as circumstances require, by initiating action to improve  
17 health care or to change decisions or activities which are against the interests or wishes of the  
18 client, and by giving the client the opportunity to make informed decisions about health care  
19 before it is provided."

20       12. Section 4022 of the Code states:

21       "Dangerous drug" or "dangerous device" means any drug or device unsafe for self-use in  
22 humans or animals, and includes the following:

23       "(a) Any drug that bears the legend: "Caution: federal law prohibits dispensing without  
24 prescription," "Rx only," or words of similar import.

25       "(b) Any device that bears the statement: "Caution: federal law restricts this device to sale  
26 by or on the order of a \_\_\_\_\_," "Rx only," or words of similar import, the blank to be filled  
27 in with the designation of the practitioner licensed to use or order use of the device.

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“(c) Any other drug or device that by federal or state law can be lawfully dispensed only on prescription or furnished pursuant to Section 4006.”

## DRUGS

13. Morphine Sulfate is a Schedule II controlled substance as designated by Health and Safety Code section 11055(b)(1)(M), and a dangerous drug as designated by Business and Professions Code section 4022.

14. Atrophine Sulfate is a generic name for Atrophine and is a dangerous drug as designated by the Business and Professions Code section 4022 because it can only be legally obtained through a prescription.

### COST RECOVERY

15. Section 125.3 of the Code provides, in relevant part, that the Board may request the administrative law judge to direct a licensee found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

**FIRST CAUSE FOR DISCIPLINE**  
**(Unprofessional Conduct)**  
**((Bus. & Prof. Code §§ 2761(a)(1))**

16. Respondent has subjected her nursing license to discipline for unprofessional conduct under Code section 2761, subdivision (a) as defined by Code section 2761, subdivision (a)(1)(incompetence, or gross negligence in carrying out usual certified or licensed nursing functions) in that she inappropriately administered morphine to a patient while she was working as a Registered Nurse for Sutter VNA Hospice (Sutter). The circumstances are as follows:

17. On June 30, 2008, Respondent was providing palliative care to a patient (Patient A) in the patient's home. Patient A was dying from brain cancer and was allergic to morphine. During her care of Patient A, Respondent obtained two medications (morphine and atrophine) from her car which were originally prescribed for two deceased patients (Patients B or Patient C) and not for Patient A. Respondent crossed out the names (Patient B and Patient C) on the prescription bottles and subsequently administered morphine from one of the bottles to Patient A. Later that

1 night, at or about 10:14 p.m., Patient A died. The Coroner's Office determined that the cause of  
2 death was natural.

3 18. Respondent's failure to obtain a new prescription for morphine for Patient A and the  
4 use of the old morphine prescribed for Patient B or Patient C is contrary to standard policies and  
5 procedures and state law.<sup>1</sup> Further, Respondent admitted she failed to notice that Patient A was  
6 allergic to morphine before administering it to her. Finally, Respondent failed to document in  
7 Patient A's record that she administered morphine to Patient A. Standard practices and  
8 procedures dictate that administration of medication must be documented in a patient chart or  
9 medical record.

10 19. The removal of the morphine and atrophine from the homes of Patient B and Patient  
11 C was against the policies and procedures of Sutter. Further, Respondent did not drop the unused  
12 medications off at a disposal site but rather kept them in her car. Sutter's policy states that a  
13 nurse is not to take medications from a home for any purpose including disposal.

14 **SECOND CAUSE FOR DISCIPLINE**  
15 **(Unprofessional Conduct)**  
16 **((Bus. & Prof. Code §§ 2762(a) & 2762(e))**

17 20. Respondent has subjected her nursing license to discipline for unprofessional conduct  
18 under Code section 2762, subdivision (a) and 2762, subdivision (e) in that she was in possession  
19 of controlled substances and dangerous drugs without authorization and she failed to document  
20 the administration of drugs on Patient A's chart.

21 21. With regard to the care of Patient A, Respondent failed to properly chart the pain  
22 level of Patient A when she administered the morphine. Further, Respondent failed to document  
23 her alleged conversation with Dr. Bishop regarding her order for morphine. Finally, Respondent  
24 failed to document her administration of morphine to Patient A on her medical chart.

25 22. Respondent stored a controlled substance, Morphine Sulfate, and a dangerous drug,  
26 Atrophine Sulfate, in her car. These medications were originally prescribed to Patient B and

27 <sup>1</sup> Respondent contends that she received a verbal order over the phone from a Sutter  
28 doctor before administering the morphine and a new order for Morphine Sulfate was entered in  
the medical record by Respondent. The order was electronically signed by Dr. Bishop on July 3,  
2008, almost two weeks after Patient A died.

1 Patient C but were not used due to the death of the Patients. Respondent removed the  
2 medications from the residence of Patient B and Patient C and did not dispose of them at the  
3 pharmaceutical disposal site. Patient B died on June 22, 2008, and Patient C died on October 29,  
4 2007. Respondent was not authorized to remove these medications from the patients' homes and  
5 not authorized to possess these medications.

6 PRAYER

7 WHEREFORE, Complainant requests that a hearing be held on the matters alleged in this  
8 Accusation, and that following the hearing, the Board of Registered Nursing issue a decision:

9 1. Revoking or suspending Registered Nurse License Number 343936, issued to Maria  
10 Caturay, also known as Maria Louisa Zucconi;

11 2. Ordering Maria Caturay, also known as Maria Louisa Zucconi, to pay the Board of  
12 Registered Nursing the reasonable costs of the investigation and enforcement of this case,  
13 pursuant to Business and Professions Code section 125.3;

14 3. Taking such other and further action as deemed necessary and proper.

15 DATED: 5/16/11

*Louise R. Bailey*  
16 LOUISE R. BAILEY, M.ED., RN  
17 Executive Officer  
18 Board of Registered Nursing  
19 Department of Consumer Affairs  
20 State of California  
21 Complainant

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